

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations

Mr. A. Jablon -2- May 7, 1984

On the day of inspection we found encroachment of steps at #21510 that diminished the alley way to 9'±.

With access to the proposed five (5) spaces by way of the restricted alley way, the State Highway Administration recommends that patrons use the southwest side of York Road for parking as shown on the site plan.

Very truly yours,
Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

cc: Mr. J. Ogle

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3011
NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Zoning Advisory Meeting of 5-1-84
Item # 2-50
Property Owner: DAVID L. COLE, ET UX
Location: W/S YORK RD. 1400 S. FROM C/L FREELAND RD.

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- ☒ There are no site planning factors requiring comment.
- ☒ A County Review Group Meeting is required.
- ☒ A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- ☒ This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- ☒ A record plat will be required and must be recorded prior to issuance of a building permit.
- ☒ The access is not satisfactory.
- ☒ The circulation on this site is not satisfactory.
- ☒ The parking arrangement is not satisfactory.
- ☒ Earning calculations must be shown on the plan.
- ☒ This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- ☒ Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- ☒ Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- ☒ The amended Development Plan was approved by the Planning Board on _____.
- ☒ Landscaping should be provided on this site and shown on the plan.
- ☒ The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- ☒ The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- ☒ Additional comments: _____

MUST COMPLY WITH STATE HIGHWAY ADMINISTRATION
REQUIREMENTS. SEE PLANS TO SEE IF ALLEY IS
NOT PART OF PETITIONER'S OWNERSHIP

James G. Howell
Chief, Current Planning and Development

cc: James Howell

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 290, Zoning Advisory Committee Meeting of May 1, 1984

Property Owner: David L. Cole, et ux

Location: W/S York Road District 7

Water Supply private Sewage Disposal private

COMMENTS ARE AS FOLLOWS:

- ☐ Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- ☐ Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- ☐ A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- ☐ A permit to construct from the Division of Air Pollution Control is required for any combustion operation which has a total cooking surface area of five (5) square feet or more.
- ☐ Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- ☐ Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other amusements pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- ☐ Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- ☐ If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

SS 20 1082 (1)

Zoning Item # 290, Zoning Advisory Committee Meeting of May 2, 1984

- ☐ Prior to razing of existing structure/s, petitioner must contact the Division of Water Quality and Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes.
- ☐ Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Water Quality and Waste Management at 494-3768.
- ☐ Soil percolation tests (have been/must be) conducted.
 - ☐ The results are valid until _____.
 - ☐ Soil percolation test results have expired. Petitioner should contact the Division of Environmental Support Services to determine whether additional tests are required.
- ☐ Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- ☐ In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - ☐ shall be valid until _____.
 - ☐ is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- ☐ Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- ☐ If submission of plans to the County Review Group is required, a Hydro-geological Study and an Environmental Effects Report must be submitted.
- ☒ Others: This site is served by a drilled well and sewage disposal system, both of which appear to be functioning properly.

John J. Foy
John J. Foy, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1283 (2) R

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

May 9, 1984

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: David L. Cole, et ux

Location: W/S York Road 1400 S. from c/l Freeland Road

Item No.: 290 Zoning Agenda: Meeting of 5/1/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ☐ 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ☐ 2. A second means of vehicle access is required for the site.
- ☐ 3. The vehicle dead end condition shown at _____ Section 312.0.
- ☒ EXCEEDS the maximum allowed by the Fire Department.
- ☐ 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- ☒ 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.
- ☐ 6. Site plans are approved, as drawn.
- ☐ 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: *Paul H. Reincke* Noted and Approved: *George M. Hagan*
Planning Group Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

May 9, 1984

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 290 Zoning Advisory Committee Meeting are as follows:

Property Owner: David L. Cole, et ux
Location: W/S York Road 1400 S. from c/l Freeland Road
Existing Zoning: R.C. 5
Proposed Zoning: R.C. 5
Variance for a side yard setback of 0.5' and 15' in lieu of the required 50' respectively and a front yard setback of 38' in lieu of the required 75'. Special exception for an antique shop in an R.C. 5 zone on a .43 acre lot in lieu of the required 1 acre.

Acres: 0.43
District: 7th.

The items checked below are applicable:

- ☒ All structures shall conform to the Baltimore County Building Code 1981/Council Bill 14-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.
- ☒ A building/ & other miscellaneous _____ permit shall be required before beginning construction.
- ☒ Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/ is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.
- ☒ Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- ☒ An exterior wall erected within 6'0" for Commercial use or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A fire wall is required if construction is on the lot line, see Table 401, line 2, Section 1407 and Table 1402, also Section 503.2.
- ☒ Requested variance appears to conflict with the Baltimore County Building Code, Section _____. See comments below; also see Sections 103.1, 103.2 and 103.4 and Section 312.0.
- ☒ A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- ☒ Before this office can comment on the above structure, please have the owner, thru the services of a Registered Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.
- ☒ Comments-Table 505 prohibits "Mercantile Uses" in wood frame structures more than one story unless sprinkled. Another alternative would be a 3 hour fire wall separation between the dwelling area and the proposed shop area. The applicant should contact a Registered Architect or Engineer for professional assistance with the Building Code. Compliance with the State Handicapped Code is required also.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Very truly yours,
Charles E. Surman
Charles E. Surman, Chief
Plans Review

APR 2 1985

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
PETITION FOR VARIANCES
W/S York Rd., 1,400' S of the : OF BALTIMORE COUNTY
Centerline of Freeland Rd.
(21510 York Rd.), 7th District :

DAVID L. COLE, et ux, Petitioners: Case No. 85-2-XA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 13th day of June, 1984, a copy of the foregoing Entry of Appearance was mailed to Mr. and Mrs. David L. Cole, 21510 York Rd., Maryland Line, MD 21105, Petitioners; and Mr. James F. Stygler, 519 Piccadilly Road, Towson, MD 21204, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
September 7, 1984

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 85-2-XA

DAVID L. COLE, ET UX

W/S York Rd., 1,400' S. of the c/l of
Freeland Rd. (21510 York Rd.)

7th District

SE-Antique shop in a dwelling
Var.-Side yard setback

7/9/84 - Z.C.'s Order - GRANTED w/restrictions

ASSIGNED FOR:

THURSDAY, DECEMBER 6, 1984, at 10 a.m.

cc: David Cole, et ux

Petitioners (former owners of subj. property)

James F. Stygler

Current owners of subj. property

Phyllis C. Friedman

People's Counsel

Norman Gerber

James Hoswell

Arnold Jablon

Joan Jung

James Dyer

June Holmen, Secy.

IN THE MATTER :
OF THE APPLICATION OF :
DAVID L. COLE, ET UX :
(James F. Stygler) :
FOR SPECIAL EXCEPTION FOR AN :
ANTIQUE SHOP IN A DWELLING AND :
FOR VARIANCES FROM §402.B.1 AND :
§1.A.04.3.B.3 OF THE BALTIMORE :
COUNTY ZONING REGULATIONS :
W/S YORK RD. 1,400' :
S. OF FREELAND ROAD :
7th DISTRICT :
NO. 85-2-XA

OPINION

This case comes before the Board of Appeals as an appeal from the Order and Findings of Fact and Conclusions of Law by the Zoning Commissioner of Baltimore County, dated July 9, 1984. The Petitioner, David L. Cole, has sold the subject property to Mr. and Mrs. James F. Stygler. The Styglers wish to convert a portion of the one hundred and fifty year old existing house to an antique shop and seek relief from §1.A.04.2.B.1, pursuant to §502.1; and from §402.B.1 and §1.A.04.3.B.3, pursuant to §307, of the Baltimore County Zoning Regulations (BCZR). The subject property is located on the west side of York Road 1,400 feet south of the centerline of Freeland Road (21510 York Road), in the Seventh Election District of Baltimore County.

In his Order, the Zoning Commissioner granted, with restrictions, the requested relief under §502.1 (special exception for use regulations) and §307 (variance from height and area regulations). From this Opinion and Order, an appeal has been brought by the People's Counsel of Baltimore County.

At the hearing, the Board received testimony from only one witness, James G. Hoswell of the Office of Planning and Zoning. Otherwise, the parties stipulated as to the testimony heard below before the Zoning Commissioner. In fact, the sole issue raised by the People's Counsel by this appeal is as to the propriety of the Petitioner's seeking relief under §307 of the BCZR. Specifically, that section empowers the Zoning Commissioner and Board of Appeals with the authority to grant variances from height and area

DAVID L. COLE (STYGLER) - #85-2-XA

2.

regulations. However, in this case People's Counsel argues that the requested relief is not from a height and area regulation, rather from use regulations. As such, a variance would not be the proper relief from the mandate of §402.B.1 (BCZR) which requires that an antique shop may not be on a lot smaller than one acre. In this case, it is stipulated by all parties that the subject property is 0.43 acre.

The Zoning Commissioner fully developed this issue in his Opinion and determined that the request for an exemption from §402.B.1 (BCZR) is an area variance. Without restating the reasoning used by the Zoning Commissioner, it is sufficient to state that we agree. Therefore, we affirm the Opinion and Order of the Zoning Commissioner.

Additionally, the Board notes that §1.A.04.3.B.5 of the BCZR provides for the exception to minimum standards for existing lots on parcels. As was stipulated to by the parties, the house on this property is one hundred and fifty years old and the configuration of the property is apparently unchanged for many years. In accordance with the spirit of that regulation, this Board believes that the petitions should be granted and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 3rd day of January, 1985, by the County Board of Appeals, ORDERED that the Order of the Zoning Commissioner of Baltimore County, dated July 9, 1984, be and the same is hereby AFFIRMED.

Any appeal from this decision must be in accordance with Rules

DAVID L. COLE (STYGLER) - #85-2-XA

3.

B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt
Lawrence E. Schmidt

LeRoy A. Spier
LeRoy A. Spier

CARL L. GERHOLD
PHILIP R. CROSS
JOHN F. ETZEL
WILLIAM B. JERICH
GORDON T. LANGDON

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EXHIBIT
L. G. HOLLENBERG
FRED H. HOLLENBERG

April 16, 1984

Zoning Description

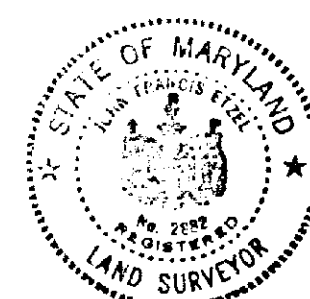
All that piece or parcel of land situate, lying and being in the Seventh Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the west side of York Road (Md. Route 45) distant 1400 feet measured southerly along the west side of York Road from the center of Freeland Road (Md. Route 409) and thence binding on the west side of York Road, South 14 degrees 48 minutes East 63.53 feet, thence leaving said York Road and binding on the property lines of the petitioners herein, the seven following courses and distances viz: South 72 degrees 00 minutes West 165 feet, North 14 degrees 39 minutes West 33 feet, South 74 degrees 30 minutes West 195.58 feet, North 16 degrees 00 minutes West 38.40 feet, North 73 degrees 20 minutes East 219.45 feet, South 14 degrees 39 minutes East 11.33 feet and North 72 degrees 00 minutes East, binding for a part on the south side of an alley, 12 feet wide, 141.94 feet to the place of beginning.

The premises being known as 21510 York Road.

Containing 0.43 of an Acre of land more or less.

Being the property of the petitioners herein and shown on a plat filed with the Zoning Department.



IN RE: PETITION FOR
SPECIAL EXCEPTION AND VARIANCES
W/S of York Rd., 1,400' S of the
c/l of Freeland Rd. (21510 York Rd.)
7th Election District

David L. Cole, et ux,

Petitioners

* BEFORE THE

* BOARD OF APPEALS

* OF BALTIMORE COUNTY

* Case No. 85-2-XA

*

* * * * *

Entry of Appearance

Please enter my appearance as a party in the above captioned matter, pursuant to Section 501.6, B.C.Z.R., and I hereby request that any and all notices be forwarded to my office, including but not limited to hearing dates and/or preliminary or final Orders.

Arnold Jablon
Arnold Jablon
Zoning Commissioner of Baltimore
County
Room 109 - 111 West Chesapeake Avenue
Towson, Maryland 21204
494-3353

Certificate of Mailing

IT IS HEREBY CERTIFIED that on this 26th day of July, 1984, copies of the foregoing Entry of Appearance were mailed, postage prepaid, by first class delivery to the County Attorney of Baltimore County, People's Counsel for Baltimore County, Petitioner(s) and/or Protestor(s) in the above captioned matter.

Arnold Jablon
Arnold Jablon

CARL L. GERHOLD
PHILIP R. CROSS
JOHN F. ETZEL
WILLIAM B. JERICH
GORDON T. LANGDON

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

EXHIBIT
L. G. HOLLENBERG
FRED H. HOLLENBERG

April 16, 1984

Zoning Description

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Beginning for the same at a point on the west side of York Road (Md. Route 45) distant 1400 feet measured southerly along the west side of York Road from the center of Freeland Road (Md. Route 409) and thence binding on the west side of York Road, South 14 degrees 48 minutes East 63.53 feet, thence leaving said York Road and binding on the property lines of the petitioners herein, the seven following courses and distances viz: South 72 degrees 00 minutes West 165 feet, North 14 degrees 39 minutes West 33 feet, South 74 degrees 30 minutes West 195.58 feet, North 16 degrees 00 minutes West 38.40 feet, North 73 degrees 20 minutes East 219.45 feet, South 14 degrees 39 minutes East 11.33 feet and North 72 degrees 00 minutes East, binding for a part on the south side of an alley, 12 feet wide, 141.94 feet to the place of beginning.

The premises being known as 21510 York Road.

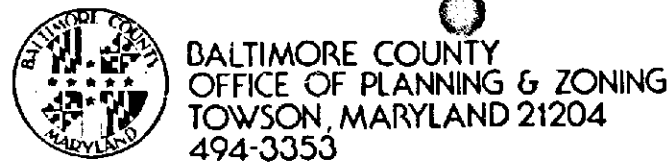
Containing 0.43 of an Acre of land more or less.

Being the property of the petitioners herein and shown on a plat filed with the Zoning Department.



1 - SIGMA

APR 2 1985



ARNOLD JABLON
ZONING COMMISSIONER

July 25, 1984

Mr. James F. Stygler
519 Piccadilly Road
Towson, Maryland 21204

Re: Petition for Special Exception and Variance
W/S York Rd., 1,400' S of the c/l of Freeland
Road (21510 York Road)
David L. Cole, et ux - Petitioners
Case No. 85-2-XX

Dear Mr. Stygler:

This is to advise you that \$60.09 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ:aj

P. S. This is a second reminder. If this bill is not paid immediately, the matter will be forwarded to the Office of Law for collection.

PETITION FOR SPECIAL EXCEPTION AND VARIANCES

7th Election District

ZONING: Petition for Special Exception and Variances
LOCATION: West side York Road, 1,400 ft. South of the centerline of Freeland Road (21510 York Road)
DATE & TIME: Monday, July 2, 1984 at 10:15 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for an antique shop in a dwelling and Variances to allow .43 acre lot instead of the required 1 acre, side yard setbacks of 0.5 ft. and 15 ft. in lieu of 50 ft., respectively and a setback of 38 ft. in lieu of 75 ft. to the centerline of the street

Being the property of David L. Cole, et ux, as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

IN RE: PETITIONS SPECIAL EXCEPTION AND ZONING VARIANCES
W/S of York Road, 1,400' S of the centerline of Freeland Road (21510 York Road) - 7th Election District
David L. Cole, et ux,
Petitioners
BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-2-XX

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for an antique shop in a residence and variances to allow the antique shop on less than one acre, side yard setbacks of one-half foot and 15 feet instead of the required 50 feet, and a setback to the centerline of the street of 38 feet instead of the required 75 feet, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, by their Contract Purchasers, Mr. and Mrs. James Stygler, appeared and testified. Nancy A. Urbanas appeared and testified as a Proponent.

Testimony indicated that the subject property, zoned R.C.5, was recently purchased by the Styglers for the purpose of opening an antique shop. The 150-year-old home will continue to be used as their primary residence; however, a 25' x 22' area would be used for the shop. The home is located on 0.43 of an acre and faces York Road. There is a 12-foot-wide alley between the instant site and the Protestants' property to the north. This alley is dirt and stone and is apparently owned in common by the two adjoining property owners. There be no exterior renovation to the building. The house is 15 feet from the property line and one-half foot from the alley; it is 38 feet from the centerline of York Road.

Mr. Stygler testified that the proposed antique shop will be his sole occupation; he is presently unemployed. The proposed business would be a specialty shop, catering to a particular group of interested people, and would be open seven days per week from 11:00 a.m. to 5:00 p.m. There will be only one sign, no more than five square feet, attached to the house and no merchandise will be placed outdoors. The surrounding neighborhood is a mixture of residences and businesses, including a brick yard, carpet store, market, gas station, bar, and post office. Parking will be to the rear of the dwelling via the alley, although parking is also available in front on the paved area which is part of the County right of way.

Mrs. Urbanas opposes the antique shop primarily because of the anticipated traffic through the alley to the available parking. Since there is only one-half foot from each house to the alley and it is only 12 feet wide, she is concerned that damage will result to her home by the vehicles using the alley. She is planning to construct a chimney which will take up that one-half foot and is worried that cars will strike it as they traverse the alley. Mrs. Urbanas is also concerned that the customers will take up the available parking spaces in front of her home. The Petitioners state that they expect no more than one or two people at any one time in the store and that vehicular use of the alley would be minor.

The Petitioners seek relief from Section 1A04.2.B.1, pursuant to Section 1A02.1, and from Sections 402.B.1 and 1A04.3.B.3, pursuant to Section 307, of the Baltimore County Zoning Regulations (BCZR).

The Court of Special Appeals has noted the distinction between a use variance which changes the character of the zoning district and an area variance which does not. Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. 288 (1974). A use variance allows a landowner to use existing property in a

- 2 -

ORDER RECEIVED FOR FILING
DATE July 9, 1984
BY Mary Campagna (clerk)

manner not permitted by ordinance and inconsistent with uses in the surrounding area. Alumni Control Board v. City of Lincoln, 137 N.W.2d 800 (Neb., 1965). An area variance authorizes deviations from restrictions upon the construction and placement of buildings and other structures; it allows modification of area, yard, height, floor space, frontage, density, setback, and similar restrictions. Blenz v. City of Dayton, 566 P.2d 904 (Ore., 1977); Ivanovich v. Tuscon Bd. of Adj., 529 P.2d 242 (Ariz., 1974). An area variance does not affect the use of land and is not associated with the advent of an incompatible use, i.e., the use itself has already been determined to be permitted by right or by special exception. Assoc. for Pres. v. D.C. Bd. of Adj., 384 A.2d 674 (D.C., 1978). In contrast, a use variance generally allows land to be used for a purpose which is inconsistent with the basic character of the area. Conley v. Town of Brookhaven Zoning Bd. of App., 353 N.E.2d 594 (N.Y., 1976). It is one which permits a use other than one prescribed by the zoning ordinance in the particular district; it permits a use which the ordinance prohibits. An area variance authorizes deviations from restrictions which relate to a permitted use rather than limitations on the use itself, i.e., restrictions on the bulk of buildings or relating to their height, size, and extent of lot coverage; minimum habitable area; or the placement of buildings and structures on the lot with respect to required yards. Variances made necessary by the physical characteristics of the lot itself are area variances. An area variance permits deviation from strict compliance with the law, i.e., the physical characteristics of the premises as shown on the map as the purposes for which the premises are intended to be used are permitted by the law. Croissant v. Zoning Bd. of Appeals, 442 N.Y.S.2d 235 (1981). A variance proposes a change in the character of the premises and involves a use not otherwise permitted. Croissant, supra.

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It is clear that the subject request for a variance from Section 402.B.1, BCZR, for a 0.43-acre lot rather than a one-acre lot as required is an area variance rather than a use variance. An antique shop is a use permitted by special exception and the proposed deviation is from the physical character of the lot. There is no request to allow a use other than what is permitted.

It is clear that the BCZR permit the use requested by the Petitioners in an R.C.5 Zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity of the proposed antique shop. Therefore, it must be determined whether the conditions delineated by Section 502.1 are satisfied by the Petitioners.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for should be granted, with certain restrictions as more fully described below.

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioners do not show that the proposed use at the particular location described by Petitioners' Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use irrespective of its location within the zone. Schultz v. Pritts, 22d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or yards therein, nor be inconsistent with the purposes of the property's zoning

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classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

It is equally clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of property, and public hearing held, and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception and variances should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 9th day of July, 1984, that the Petition for Special Exception for an antique shop in an R.C.5 Zone and, additionally, the Petition for Zoning Variances to allow the antique shop on less than one acre, side yard setbacks of one-half foot and 15 feet instead of the required 50 feet, and a setback to the centerline of the street of 38 feet instead of the required 75 feet be and are hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. The special exception and variances granted herein shall terminate upon the sale or transfer of the property to any party not of the Petitioners' immediate family.
2. The alley between the Protestant's and Petitioners' property shall be paved provided the Protestant agrees. The alley must be maintained by the Petitioners and the cost of such paving and maintenance shall be their responsibility. If the Protestant refuses to allow utilization of the alley, the Petitioners may file a Petition for Zoning Variance from the parking requirements.

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3. Any damage to the alley or to the Protestant's home caused by traffic to the antique shop utilizing the alley shall be the responsibility of the Petitioners.
4. The antique shop may be open seven days a week, 11:00 a.m. to 5:00 p.m. only.
5. The Petitioners must insure that no customers to the antique shop utilize those parking spaces in front of the Protestant's home.

Zoning Commissioner of
Baltimore County

AJ:srl

cc: Mr. & Mrs. James F. Stygler

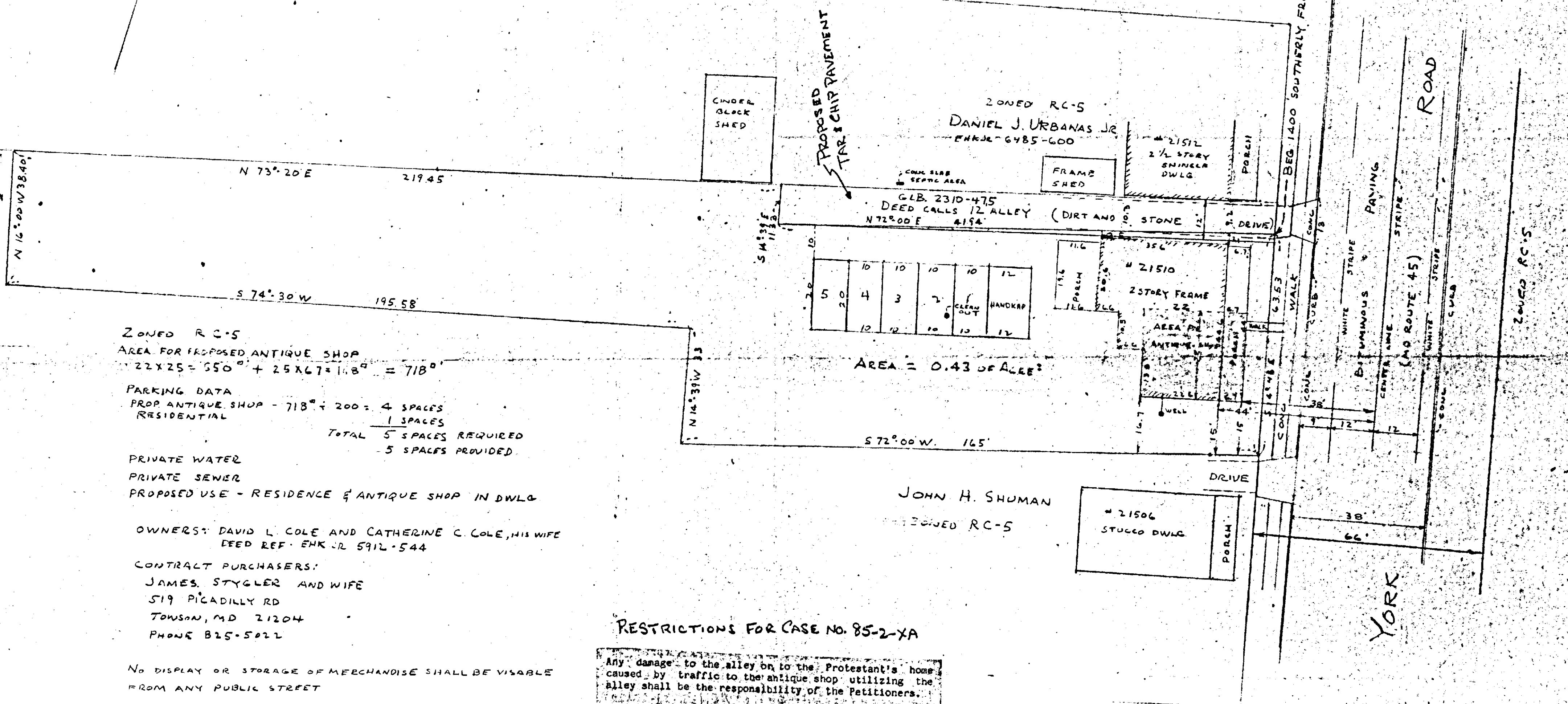
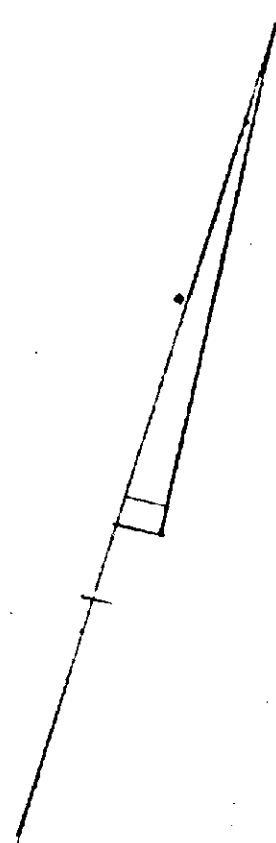
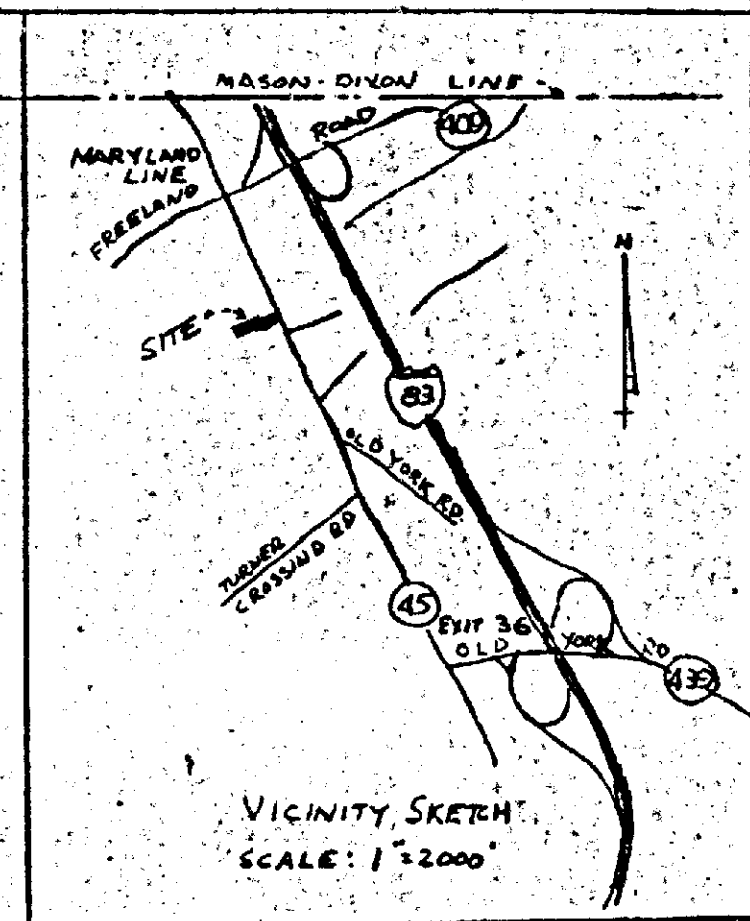
Mrs. Nancy A. Urbanas

People's Counsel

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PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY J. Cole
DATE 7/20/84
BY John H. Shuman
ZONING COMMISSIONER
DATE 9/18/84
85-2-XA
C-1212-84



ZONED RC-5
AREA FOR PROPOSED ANTIQUE SHOP
 $22 \times 25 = 550' + 25 \times 67 = 1,675' = 718'$
PARKING DATA
PROP ANTIQUE SHOP - $718' \div 200 = 4$ SPACES
RESIDENTIAL 1 SPACES
TOTAL 5 SPACES REQUIRED
5 SPACES PROVIDED

PRIVATE WATER
PRIVATE SEWER
PROPOSED USE - RESIDENCE & ANTIQUE SHOP IN DWLG

OWNERS: DAVID L. COLE AND CATHERINE C. COLE, HIS WIFE
DEED REF. ENK RL 5912-544

CONTRACT PURCHASERS:
JAMES STYGLER AND WIFE
519 PICADILLY RD
TOWSON, MD 21204
PHONE 825-5022

NO DISPLAY OR STORAGE OF MERCHANDISE SHALL BE VISIBLE
FROM ANY PUBLIC STREET

ONE SIGN IN ADDITION TO THOSE PERMITTED UNDER
SUBSECTION 413.1 MAY BE DISPLAYED, PROVIDED THAT
IT SHALL SHOW ONLY THE NAME OF THE BUSINESS;
SHALL BE SINGLE-FACED, STATIONARY, AND
NON-ILLUMINATED; AND SHALL NOT EXCEED
5 SQUARE FEET IN AREA

PROPERTY LOCATED
IN
7TH DIST. BALTO. CO. MD.

RESTRICTIONS FOR CASE NO. 85-2-XA

Any damage to the alley or to the Protestant's home caused by traffic to the antique shop utilizing the alley shall be the responsibility of the Petitioners.
The antique shop may be open seven days a week, 11:00 a.m. to 5:00 p.m. only.
The Petitioners must insure that no customers to the antique shop utilize those parking spaces in front of the Protestant's home.
The special exception and variances granted herein shall terminate upon the sale or transfer of the property to any party not of the Petitioners' immediate family.
The alley between the Protestant's and Petitioners' property shall be paved, provided the Protestant agrees. The alley must be maintained by the Petitioners, and the cost of such paving and maintenance shall be their responsibility. If the Protestant refuses to allow utilization of the alley, the Petitioners may file a Petition for Zoning Variance from the parking requirements.

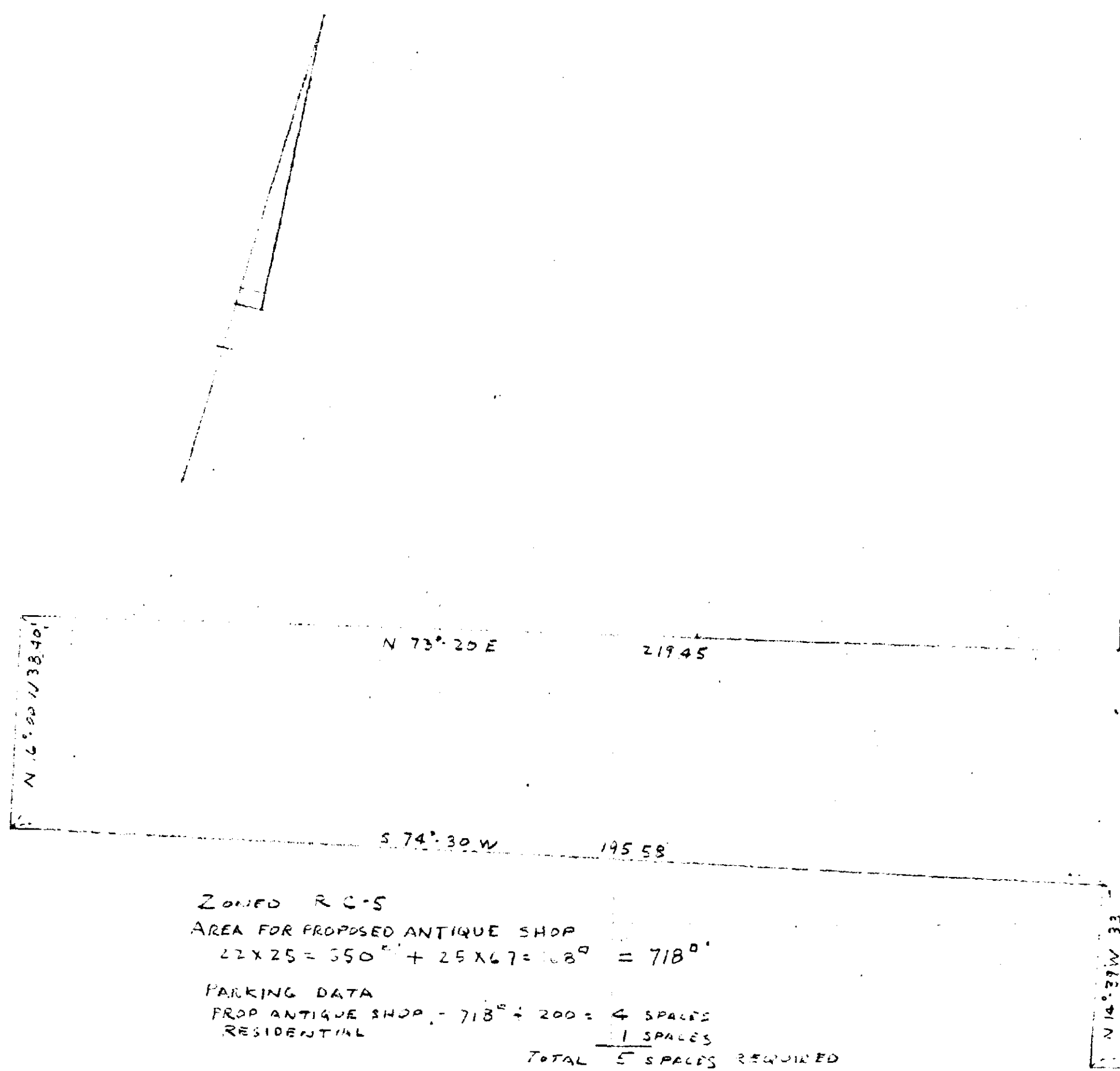
ZONING PLAT TO ACCOMPANY ZONING PETITION FOR
SPECIAL EXCEPTION FOR AN ANTIQUE SHOP IN A DWELLING
AND A ZONING PETITION FOR ZONING VARIANCE FROM
SECTION 407 B.1 TO ALLOW AN ANTIQUE SHOP IN A
DWELLING IN A RC-5 ZONE ON A 0.43 OF ACRE LOT
INSTEAD OF THE REQUIRED 1 ACRE.

AND VARIANCE FROM SECTION 1A04.3 B3 FOR A SIDE
YARD SETBACK OF 0.5' AND 15' IN LIEU OF 50' AND
A FRONT YARD SETBACK OF 38' IN LIEU OF 75' FROM
OF YORK RD.



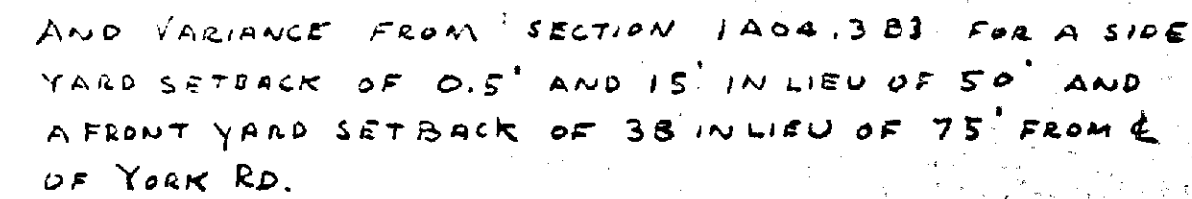
NOTE: COMPILED FROM DEEDS & SURVEYS

SCALE: 1" = 20'
MAY 22, 1984
APRIL 16, 1984
GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 Delaware Avenue
TOWSON, MARYLAND 21204

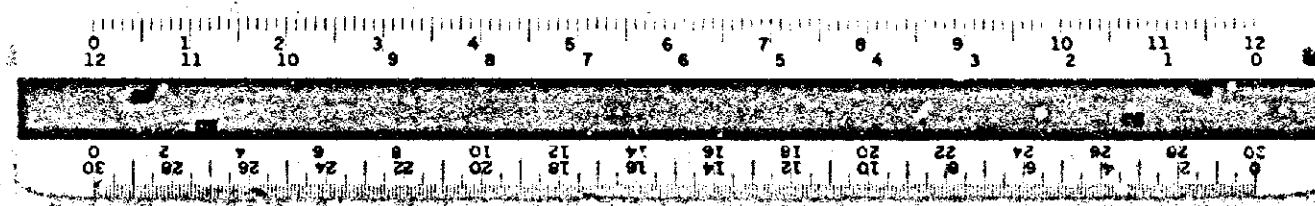


NOTE: COMPILED FROM DEEDS & SURVEYS

A hand-drawn vicinity sketch map. At the top, a dashed line is labeled "MASON-DIXON LINE". Below it, a solid line is labeled "MARYLAND LINE". A road labeled "FREELAND ROAD" runs horizontally across the top. A diagonal road, "OLD YORK RD", runs from the top left towards the bottom right. A point on this road is marked with an arrow and labeled "SITE". Further down "OLD YORK RD", there is a shield-shaped marker with the number "83". To the left of "OLD YORK RD", a road labeled "TURNER CROSSLAND RD" branches off. Further down "OLD YORK RD", there is a shield-shaped marker with the number "45". To the right of "OLD YORK RD", a road labeled "EXIT 36 OLD YORK RD" branches off, leading to a shield-shaped marker with the number "433". A north arrow points upwards on the right side of the map. At the bottom, the text "VICINITY SKETCH" and "SCALE: 1"=2000'" is written.



PROPERTY LOCATED
IN
7TH DIST. BALTO. CO. MD.



SCALE: 1" = 20' MAY 22, 1984
APRIL 16, 1984

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 Delaware Avenue
TOWSON, MARYLAND 21204